IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.23438 of 2007
MOST.SAVITRI DEVI & ORS
Versus
STATE OF BIHAR & ORS

For the petitioners : Mr. Ashok Kumar No. 3, Advocate
For the State : Mr. Jharkhandi Upadhaya, A.P.P.
For O.P. No. 2 : None

O R D E R

This is an application by the seven F.I.R. named accused of Lalganj P.S. Case No. 110 of 2007 registered under sections 147, 148, 149, 341, 323, 504/34 I.P.C.and section 3(1) (x) of the Scheduled Castes and Scheduled Tribes Act, 1989, (hereinafter referred to as "the S.C. & S.T. Act) for the quashing of the said F.I.R.

It may be stated at the very out set that although notice was validly served on the informant, who has been impleaded as O.P. No. 2 herein, yet for reasons best known to him he has chosen not to appear to contest this application.

It appears that one Arun Baitha gave his fardbeyan at 15 hrs. on 14.4.2007 at the Lalganj Referal Hospital inter alia alleging that earlier that day at about 11 A.M. as he went to plough his field all the seven

WEB COPY NOT OFFICIAL

persons named therein came over and forbade him from ploughing the fields and also castigated him for being a Dhobi and attempting to plough the lands of the Brahmins. It is further alleged that having threatened to kill him and all his family members, they resorted to assault him and his family members with *lathi, danda* and pistol and looted crops from his field adjacent thereto. It is alleged that the petitioners snatched the nose-pin and earrings of his wife and abused his mother. It is stated that there was land dispute in respect of the 18 links of land purchased by the informant from one Satyendra Mishra by a registered sale deed and it was over ploughing of these lands that the occurrence had taken place. It is further stated that a land dispute was still continuing between Satyendra Mishra (O.P. No. 2) and Baleshwar Mishra (Petitioner no. 3).

WEB COPY NOT OFFICIAL

It has been submitted on behalf of the petitioners that they are innocent and had committed no offence as alleged and had falsely been implicated due to bonafide land dispute existing between the parties in

the Civil Court as also the High Court. In this connection it is stated that petitioner no. 1 Savitri Devi had filed Complaint Case No. 1881 of 2007 against Satyendra Mishra, Jang Bahadur Baitha @ Lakri Baitha, Anil Baitha , Arun Baitha, Guria Devi and Chanda Devi alleging offences under sections 341, 427, 323, 307/504 I.P.C. for an occurrence which took place on 14.4.2007 at around 11.30 A.M. even as she and her son were cutting crops and the accused persons variously armed came and assaulted them. It has also been submitted that in the said complaint case (Annexure 2) the allegation was of Jang Bahadur Baitha and Arun Baitha catching hold of petitioner no. 2 herein and attempting to strangulate him by means of a *gamchha* as a result whereof blood started oozing from his nose and mouth, whereafter he was assaulted with *lathi* and *danda* and Rs. 5000/- was snatched from his pocket by Satyendra Mishra (O.P. No. 3). Overt acts by other accused of that complaint case was also specified and disclosed. It has also been submitted that petitioner no. 1 herein had earlier also filed a complaint case bearing no. 1268 of

WEB COPY NOT OFFICIAL

2006 against Satyendra Mishra, Arun Baitha and Anil Baitha, sons of Jang Bahadur Baitha, Uma Shankar Mishra, Jag Mohan Mishra and Baldeo Mishra for which the occurrence took place on 12.6.2006 and a copy of the complaint petition has been annexed as Annexure 3 and cognizance was taken therein under sections 323, 379, 417 and 423 I.P.C. Incidences of few other cases between the parties have also been divulged. Finally it has been submitted that the petitioners are in peaceful possession and title over the land in question and they have been falsely implicated in this case only with a view to pressurize them to enter into compromise and harass them. The learned counsel also sought to submit that from the averments in the fardbeyan no offence under the S.C. & S.T. Act was made out and the instant case was an abuse of the process of the Court.

WEB COPY NOT OFFICIAL

It is by now well settled by a catena of decisions of the Apex Court as also this Court that the High Court should be loath in exercising powers under section 482 Cr.P.C. so as to interfere with the statutory power of the police to investigate in cognizable offences. It has been

observed that where investigation in a matter of cognizable offence is still under progress and no police report under section 173 Cr.P.C. has been submitted before the Magistrate concerned quashing of the F.I.R. or the entire criminal proceeding was unjustified. In the case of Union of India Vs. Prakash P. Hinduja reported in (2003) 6 SCC 195, it was observed :

> *" 20. Thus the legal position is absolutely clear and also settled by judicial authorities that the court would not interfere with the investigation or during the course of investigation which would mean from the time of the lodging of the course of the first information report till the submission of the report by the office in charge of the police station in court under Section 173(2) CrPC, this field being exclusively reserved for the investigation agency."*

WEB COPY NOT OFFICIAL

Similar views have also been expressed in the case of Abindandan Jha Vs. Dinesh Mishra reported in AIR 1968SC 117 , State of Bihar Vs. J.A.C. Saldanha reported in (1980) 1 SCC 554 and State of Karnataka Vs. Pastor P. Raju reported in (2006) 6 SCC 728.

There are also a catena of decisions of the Apex Court as also of this Court which have indicated that the complaint or the F.I.R. can be quashed only when the

ingredients of the offences alleged is not made out from a primary perusal of the F.I.R. or the complaint petition, which is not the situation here. It is apparent from the fardbeyan as also the application under consideration that there exists a bona fide land dispute between parties. These matters can only come forth in course of investigation where the evidence related to land dispute and other ingredients of the offences alleged will be looked into by the Investigating Officer and truth will surface.

For the reasons mentioned above there is no merit in this application which is accordingly dismissed.

(Abhijit Sinha, J.)

The Patna High Court
The 4th July, 2008
Spd./ A.F.R.

WEB COPY
NOT OFFICIAL